

Default Judgments

- A. Motions and/or Applications.** A motion and/or application for a default judgment must comply with Local Civil Rule 55.1 and 55.2 and will not be accepted absent the following:
- i. An affidavit (a) describing the nature of the claim; (b) setting forth the basis for this Court's subject matter jurisdiction; (c) setting forth the factual basis for personal jurisdiction over the defendant; (d) describing the manner of service and representing that it is authorized by law; and (e) stating that the defendant is not an infant or an incompetent;
 - ii. A "Certificate of Default" issued by the Clerk of Court certifying that the defendant was properly served and has failed to appear or answer. Said certificate shall be signed and stamped by the Clerk of the Court;
 - iii. A proposed form of default judgment; and
 - iv. Proof of service of the motion and/or application for a default judgment by certified mail return receipt requested.
- B. Damages.** If the plaintiff seeks an award of damages in the motion and/or application for default judgment, the plaintiff must also include:
- i. A request for an amount equal to or less than the principal amount demanded in the Complaint;
 - ii. Supporting documentation and legal support for the claimed amount, including the calculations used to arrive at the amount;
 - iii. An affidavit stating that no part of the judgment sought has been paid, other than as indicated;
 - iv. If attorney's fees and expenses are sought, an affidavit setting forth the hourly rate, number of hours spent and manner of calculation of reasonable attorney's fees and expenses and a memorandum setting forth the legal and factual basis for the claim that attorneys' fees and expenses are recoverable;
 - v. Any request for interest on the principal amount may not exceed 9% simple interest, absent a demonstrated legal basis for a different request. In all events, the request should demonstrate the method of calculation and provide the date as of which interest was calculated and the per diem interest amount to follow after that date.

C. **Submission.** The “proposed” Certificate of Default and default judgment should not be submitted through the ECF system. Instead, they should be sent by email to the Clerk, in word processing format (WordPerfect or Word) rather than as a pdf document. Email the proposed “Certificate of Default” and/or default judgment to: orders_and_judgments@nysd.uscourts.gov

- i. Motions and/or applications for default judgments, the affidavits in support, statement of damages and any exhibits should be filed electronically through the ECF system.
- ii. Submit a courtesy copy of the motion, affidavits, statement of damages and exhibits to chambers.